The Master Settlement Agreement

Details of the Agreement

Although the Master Settlement Agreement between tobacco companies and the States was signed over 2 years ago, many people have questions about the details of the agreement:

- How and when was the agreement formed?
- What events preceded the agreement?
- Is the agreement binding?
- Does the agreement direct States on how their settlement funds should be spent?

The settlement agreement contained a number of important public health provisions

Below is an excerpt from *Reducing Tobacco Use: A Report of the Surgeon General*[1] that addresses some of these questions.

On November 23, 1998, 11 tobacco companies executed a legal settlement with 46 states, the District of Columbia, and five commonwealths and territories. The plaintiffs had sued the tobacco industry to recoup Medicaid costs for the care of persons injured by tobacco use. The suit alleged that the companies had violated antitrust and consumer protection laws, had conspired to withhold information about adverse health effects of tobacco, had manipulated nicotine levels to maintain smoking addiction, and had conspired to withhold lower-risk products from the market.

In the settlement, the companies agreed to pay states $246 billion over 25 years. But in addition, the settlement agreement contained a number of important public health provisions. The agreement placed significant marketing restrictions on the industry by prohibiting direct advertising and promotion aimed at young people, by limiting brand name sponsorship at events that might be frequented by youth, by requiring the removal of street advertising without restrictions on counteradvertising, by placing substantial restrictions on lobbying and on the suppression of research findings, and by requiring major contributions for the industry to cessation and prevention activities. In addition, the agreement dealt with such issues as legal fees, court supervision, civil liabilities restrictions, and public disclosure. Unlike the 1997 settlement, the 1998 settlement contained no provisions regarding FDA authority.

The agreement raised a number of issues for states, but foremost among these has been the competition between tobacco control efforts and other State spending priorities. The National Governors' Association issued a policy statement that reaffirmed states' entitlement and asserted that the federal government had no legitimate claim to settlement funds. The association committed to spending a "significant portion of the settlement funds on smoking cessation programs, health care, education, and programs benefitting children" but reserved the right to make funding decisions tailored to states' individual needs. For FY2001, 35 states have appropriated $614.9 million from the settlement agreement specifically for tobacco prevention and control purposes.

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REFERENCE

1. *Reducing Tobacco Use: A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services; 2000.